

Chapter 13 - Equal Employment Opportunity

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Part 1 – Equal Employment Opportunity**13101 POLICY**

- A. The NOAA Corps is committed to equal opportunity for all persons regardless of race, color, sex, national origin, religion, age and/or disability. Those who participate in the equal employment opportunity (EEO) process will be free from retaliation. All members of, and applicants to, the NOAA Corps will be afforded equal opportunity and just treatment when considered for recruitment, appointment, professional development, promotion, assignment, retention, relocation and separation, consistent with the laws and regulations affecting, and the needs of, the NOAA Corps. All persons involved in activities affecting recruitment, appointment, professional development, promotion, assignment, retention, relocation and separation, of applicants to, or members of, the NOAA Corps shall conduct themselves so as to ensure there is no discrimination against any individual because of race, color, religion, sex, national origin, age and/or disability, or in reprisal for past EEO actions or complaints. A finding of discrimination may result in disciplinary action against the offending party. (see NOAA Corps Directives (NCD) Chapter 7).

13102 RESPONSIBILITIES

- A. All NOAA Corps officers, whether or not personally aggrieved, are expected to:
- (1) make an effort to positively indicate perceived discrimination or harassment to the allegedly discriminating or harassing party; and
 - (2) seek redress when they believe they have been discriminated against.
- B. A NOAA Corps officer so informed, or who otherwise becomes aware, of incident(s) of discrimination or harassment shall take immediate action to correct the situation. Firm and timely action is required to demonstrate a commitment to justice and equality of treatment for all personnel. Failure to deal promptly and appropriately with actual or alleged harassment or discrimination may have an adverse impact upon NOAA and the NOAA Corps.
- (1) Management must be receptive and responsive to all individuals who exercise their right to present claims of discrimination.
 - (2) Management must ensure that complaints may be brought without fear of intimidation or reprisal.
 - (3) Management must ensure that all personnel are aware of procedures for reporting and correcting discrimination problems.

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- (4) Management must make every effort to protect the confidentiality of sensitive information, to protect the rights of any accused party, and to prevent the spread of unverified or sensitive information.
- C. The Director is responsible for ensuring that all individuals under his/her authority comply with all requirements of NOAA's EEO/Civil Rights Program, including the affirmative employment, EEO counseling, and discrimination complaints processing and adjudication elements.

13103 LIABILITY

- A. Managers and supervisors are responsible for enforcing standards of appropriate behavior in the workplace.
- B. Failure to address issues of discrimination or harassment shall result in serious consequence to the operating unit or office. The matter to be decided when complaints are adjudicated is whether the employer acted properly in maintaining a workplace free of prohibited discrimination, and how the employer addressed the particular allegations. Failure to deal promptly and appropriately with actual or alleged discrimination or harassment may have an adverse impact upon NOAA, the NOAA Corps, and the chain of command.
- C. Ignorance is not a defense for inaction in cases of discrimination or harassment. Employers are liable, particularly for acts of sexual harassment, where the employer, its agents or supervisory employees, knew, or should have known, of the conduct and failed to take immediate and appropriate corrective action.
- D. An employer may also be liable for acts of non-employees, particularly with respect to sexual harassment in the workplace, where the employer, its agents or supervisory employees, knew or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. The extent of the employer's control over the situation, and any other legal responsibility the employer may have with regard to the conduct of such non-employees, will be taken into account in determining such liability.

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13104 CORRECTIVE PROCEDURES

- A. EEO procedures are designed to make the aggrieved person "whole" again, that is, to restore such person to the same state as before the incident or series of events.
- B. Aggrieved NOAA Corps officers must use Department of Commerce civilian EEO complaint procedures. These procedures are set forth in Department of Commerce's Administrative Order 215-9, Filing Discrimination Complaints (see <http://dms.osc.doc.gov>). NOAA Corps officers who believe they have been aggrieved should contact an EEO counselor from NOAA's Office of Civil Rights at 301-713-0500.
- C. Nothing in these procedures shall be deemed to preclude the initiation or continuance of any disciplinary action or a decision in such a case while an EEO complaint is pending or in process.

13105 HARASSMENT

- A. Harassment is a particularly egregious and damaging form of discrimination and will not be tolerated. Every NOAA Corps officer shall comport him/herself in a nondiscriminatory manner, and shall make every effort to ensure a workplace is free of hostile conduct. Managers and supervisors shall monitor the workplace for comments and conduct that might constitute harassment. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. Prevention is the best tool for the elimination of harassment in the workplace.
- B. Aggrieved NOAA Corps officers may seek redress for harassment through the EEO process by contacting an EEO counselor from the NOAA Office of Civil Rights at 301-713-0500. In addition, a NOAA Corps officer who perceives him/herself as subject to harassment should explicitly inform the alleged harasser that the harassing conduct is offensive and unwanted. If communication with the alleged harasser does not end the offensive conduct, the aggrieved NOAA Corps officer may inform the supervisor of the situation. Depending on the situation, the aggrieved NOAA Corps officer may inform his/her own supervisor, the alleged harasser's supervisor, or a second-line supervisor.

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- C. In certain circumstances, the nature of particular allegations or incidents of harassment are such that immediate appropriate action by the appropriate manager or supervisor is mandatory without regard to whether a NOAA Corps officer files an EEO complaint or pursues a claim of harassment in some other forum. Procedures for addressing this special class of allegations are contained in Department of Commerce Administrative Order 202-955, Allegations of Harassment Prohibited by Federal Law (see <http://dms.osec.doc.gov>).

13106 TRAINING REQUIREMENTS

- A. All NOAA Corps officers shall attend a minimum of four hours of training in EEO principles and practices, prevention of sexual harassment, or cultural diversity once every two years. Government-sponsored courses, private industry courses, or correspondence courses may be used to fulfill this requirement, provided that training courses comport with the provisions of NOAA Administrative Order 215-101, NOAA EEO Training Program (see <http://www.ofa.noaa.gov/~nao/index.html>). It is the NOAA Corps officer's responsibility to arrange for such training, and to ensure documentation of such training is provided for his/her Official Personnel File (OPF).